



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**

**MILIMANI LAW COURTS**

**CIVIL DIVISION**

**CIVIL APPEAL CASE NO. 633 B OF 2008**

**MWANAISHA WARIGA.....1<sup>ST</sup> APPLICANT**

**EVANSON KAMAU WAITHIKI.....2<sup>ND</sup> APPLICANT**

**VERSUS**

**PHILIP MUSUNGU ..... RESPONDENT**

**RULING**

1. The application dated 28<sup>th</sup> August,2013 seeks orders that the amount of Kshs.490,000/= deposited as security in this case be released to the appellants.
2. The application is supported by the affidavit sworn by the applicants on 27<sup>th</sup> August, 2013. It is stated by the applicants that they deposited the decretal sum in court pending the hearing of the appeal. That the appeal has been determined in the appellants favour, hence this application.
3. The application is opposed. No papers have been filed in opposition to the application. During the hearing of the application, there was no attendance for the respondent though service had been effected. The application proceeded *ex parte*.
4. I have considered the application. I have also perused the file. The appeal was allowed and the Respondent's claim was dismissed as per the judgment dated 19<sup>th</sup> November, 2012. Consequently, there is no reason why the kshs.490,000/= deposited in the joint names of the counsels for the parties herein should not be released to the applicants.
5. Although the counsel holding brief for Mr. Owoga for the applicants referred to another application dated 11<sup>th</sup> February, 2013, I have found to such application on the record.
6. With the foregoing the application dated 28<sup>th</sup> August, 2013 is allowed as prayed.

Dated, signed and delivered at Nairobi this 21<sup>st</sup> day of Sept , 2016.

**B. THURANIRA JADEN,**

**JUDGE**